

FILED

OCT 22 1993

CLERK, U.S. DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
BY *[Signature]* DEPUTY

UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA

ASSIGNMENT OF CASES)	GENERAL ORDER NO. <u>224</u>
)	
AND)	(SUPERSEDES GENERAL ORDERS
)	NOS. 83 AND 84 AND CONSOLIDATES
DUTIES TO JUDGES)	GENERAL ORDERS 224, 224-A, 224-B
)	224-C, 224-D, 224-E AND 224-F)
_____)	

This General Order shall supersede General Orders numbered 83, 84, 224, 224-A, 224-B, 224-C, 224-D, 224-E, and 224-F previously filed with the Court.

The assignment of cases and duties to the Judges of this Court shall be governed as follows:

1.0 CIVIL CASES

All cases of a civil nature shall be assigned to the individual calendars of the judges of this Court pursuant to this General Order.

1.1 FILING AND NUMBERING

All cases of a civil nature shall be numbered consecutively upon the filing of the first document in each such case. Numbering shall include the calendar year and consecutive number within that year, e.g., 80-0001, etc., 81-0001, etc.

1.2 ASSIGNMENT OF CIVIL CASES

The assignment of civil cases shall be completely at random through the Automated Case Assignment System, or otherwise, as approved by the Court and under the supervision of the Chief Judge. The assignments shall be in such a manner that each active judge of the Court over a period of time shall be assigned substantially an equal number of cases.

Neither the Clerk nor any Deputy Clerk shall have discretion in determining the judge to whom any civil case shall be assigned. The action of the Clerk in the assignment of cases is ministerial only.

1.2.1 PREPARATION OF ASSIGNMENT CARDS

After the close of business at the end of each calendar month, a sufficient number of electronic cards shall be prepared for each judge receiving civil case assignments to satisfy the requirements of the next month's business.

1.2.2 PRESERVATION OF ASSIGNMENT RECORDS

Records pertaining to all case assignments shall be preserved for two years after the end of the calendar year in which the assignments were made.

1.3 RANDOM SELECTION

The method for assignment of cases chosen by the judges shall be such that the judge to whom any particular matter is to be assigned shall not be known by or disclosed to the Clerk, any member of his or her staff or any other person until after such case has been filed and numbered.

1.4 ASSIGNMENT TO A PARTICULAR JUDGE

The Clerk shall, after filing and numbering the case through the Automated Case Assignment System, or otherwise, randomly obtain the name of the judge to whom the case is to be assigned.

1.5 DEBITS AND CREDITS IN CIVIL CASES

The Clerk shall promptly make all case-assignment debits and credits resulting from transfers under this General Order.

1.6 BANKRUPTCY CASES

No bankruptcy case, matter or proceeding shall be deemed to be a "case of a civil nature," as that term is used in Section 1.0, until the time for the assignment of such case to the individual calendar of a district judge as provided in Section 16.1 of this General Order.

2.0 PRISONERS' PETITIONS AND WRITS OF HABEAS CORPUS [28 USC §2255 AND §2241]

A petition filed by a prisoner pursuant to 28 USC §2255 or §2241 shall be assigned for no additional case credit to the judge who has ordered the commitment of the prisoner.

If the committing judge has taken senior status and chooses not to receive the petition or has died, or is otherwise unavailable to receive the petition, then the petition shall

be processed as a new civil action and shall be randomly assigned for credit to a judge under the civil case assignment system.

3.0 TRANSFER OF CIVIL CASES BETWEEN JUDGES

3.1 VOLUNTARY TRANSFERS

The judge to whom any particular action or proceeding is assigned will have full charge of such case until terminated except that the matter may be transferred by order of the transferor and transferee judge. If such a transfer is made it shall be respectively debited and credited against the transferor and transferee judges' general obligation to receive civil cases, unless otherwise ordered.

3.2 VISITING AND SENIOR JUDGES - DEBITS AND CREDITS

Matters transferred to a visiting judge or senior judge shall be debited against the general obligation to receive cases of the transferor judge. Credits and debits made pursuant to this rule shall be made when the visiting or senior judge commences trial of the case transferred.

3.3 SELF-RECUSAL BY ASSIGNED JUDGE

If any judge who is assigned a case under this General Order voluntarily recuses him or herself from the case, the case shall be returned to the Clerk for the random assignment to another judge of the Court in accordance with this General Order. The recused judge shall receive a debit against the general obligation to receive civil cases.

3.3.1 DEBIT AND CREDIT ADJUSTMENTS

If the self-recusal is exercised after 120 days of being assigned the civil case and both the self-recusing judge and the receiving judge are active judges, the receiving judge shall have the option of transferring a case of equal or similar weight and complexity from his or her calendar to the judge who exercised the self-recusal. In this situation no debit or credit adjustments shall be made against the general obligation to receive civil cases.

3.3.2 REVIEW OF RETURN TRANSFER

If the receiving judge exercises the option under Section 3.3.1 of transferring a case from his or her calendar to the self-recusing judge, the self-recusing judge may appeal the case selected for transfer as not being "a case

of equal or similar weight and complexity" to the Case Assignment Committee. The Committee may approve the transfer or disapprove it. In the latter case, the Committee may require another case to be selected for transfer or may require that only card credit be received.

3.4 PROLONGED ILLNESS OR UNAVOIDABLE ABSENCE

In the event of prolonged illness, disability, or other unavoidable absence of the judge to whom a civil case has been assigned, the Case Assignment Committee may transfer from the calendar of such absent judge any case or cases deemed necessary to expedite the business of the Court and obtain justice for the litigants. Such case or cases shall be returned to the Clerk for assignment in the same manner as an original case assignment as provided in this General Order.

3.5 UNAVOIDABLE DELAY

The Court, by concurrence of two-thirds of all the active and sitting judges (excluding the judge whose case is being transferred), may transfer any case assigned to a judge of this Court if delay in the processing of the case will be detrimental to the interest of justice, to the litigants, and if the calendar of the assigned judge cannot accommodate a reasonably early processing of the case. The judge from whose calendar the case is transferred shall receive a debit against the general obligation to receive civil cases. The case or cases shall be returned to the Clerk for assignment in the same manner as an original case assignment as provided in this General Order.

4.0 MOTION TO DISQUALIFY A JUDGE

If a motion is made to disqualify a judge in any civil case assigned to the judge pursuant to this General Order, the motion shall be referred to the Clerk for assignment to another judge in the same manner as cases are assigned pursuant to this General Order. The judge to whom the motion is assigned shall promptly determine whether the motion is timely filed and is legally sufficient to require a hearing on the disqualification.

If the judge determines that the motion is not timely filed or that the motion is legally insufficient, the motion will be denied and the case shall proceed as originally assigned. If the judge determines that the motion is timely and legally sufficient, the matter will be set down for hearing or other determination at the earliest time practicable. The

judge against whom the motion has been filed shall not proceed with the case until the motion has been heard and determined.

If the judge denies the motion, that case shall proceed as originally assigned. If the motion is granted the case shall be returned to the Clerk for assignment in the same manner as an original case assignment as provided in this General Order.

4.1 MOTION TO DISQUALIFY - CREDIT FOR HEARING MOTION

The judge to whom a motion to disqualify has been assigned shall receive no case credit.

4.2 MULTIPLE MOTIONS TO DISQUALIFY

If more than one motion to disqualify the same judge is made in the same case or in related or consolidated cases before the same judge, the assignment and transfer of all such motions subsequent to the first motion shall be to the judge who determined the initial motion to disqualify.

5.0 RELATED CASE TRANSFERS

5.1 PRELIMINARY SCREENING

The Clerk shall promptly examine the original complaint or petition in each civil case and ascertain whether any one or more civil cases previously filed and any one or more currently filed appear

- a. to arise from the same or a substantially identical transaction, happening or event; or
- b. involve the same patent, trademark or copyright, except where in one or both actions the same patent, trademark or copyright is joined with other patents, trademarks or copyrights which do not cover the same or substantially identical subject matter; or
- c. call for determination of the same or substantially identical questions of law and fact; or
- d. for other reasons would entail substantial duplication of labor if heard by different judges.

5.1.1 EXCEPTIONS

A complaint or petition shall not be considered for transfer as a related case if the lower numbered case has been closed unless:

- a. the case was closed without a determination of the merits,
or
- b. the case has been determined on the merits and has been
closed for less than one (1) year.

5.1.2 IDENTICAL CASES

Notwithstanding the provisions of Section 5.1.1, when a case is closed and the identical case is refiled, the complaint or petition shall be transferred to the originally assigned judge and no case credit shall be given to the originally assigned (transferee) judge. The transferor judge shall receive one debit in the general obligation to receive civil cases.

5.2 DETERMINATION OF RELATED CASE EVENTS

Whenever it shall appear to the Clerk that any one or more of the above circumstances set forth in Section 5.1 exist it shall be the duty of the Clerk to report the cases in question to the judges concerned at the earliest date practicable.

5.3 TRANSFER ORDER

The Clerk's report pursuant to Section 5.2 shall be accompanied by a transfer order to be signed by the judges concerned with the proposed transfer. The transfer order shall be presented to the transferee judge in the first instance.

5.4 ASSIGNMENT TO JUDGE WITH LOW NUMBER CASE

All pending civil cases which fall within the related case transfer criteria of Section 5.1 a - d, shall be assigned to the judge to whom the case with the low number has been previously assigned (i.e., the case first filed bearing the lowest case number). An order for transfer of a case subject to this provision shall be made and entered at the earliest practicable date following commencement of the case.

5.5 LIMITATION OF RELATED CASE TRANSFER

Low number transfers shall be limited to 10 cases for which credit shall be given to the transferee judge on the general obligation to receive civil cases except as hereinafter provided.

5.6 RELATED CASES IN EXCESS OF TEN

5.6.1 REPORT OF RELATED CASES IN EXCESS OF TEN

All related cases in excess of ten (10) shall be reported to the Case Assignment Committee by the Clerk of Court.

Any judge, at his or her option, may bring a lesser number of related cases to the attention of the Committee for their consideration of assignment under this Section.

5.6.2 ASSIGNMENT OF RELATED CASES

Related cases referred to the Committee shall be reviewed by the Committee for assignment to a judge to hear all proceedings through pretrial or for as long as the assigned judge feels appropriate. The judge originally assigned the first ten (10) related cases shall be given the right of first refusal to keep the related cases as the assigned judge. If the originally assigned judge declines the related cases, the Committee shall nominate a judge for the assignment. If the nominee does not accept the assignment, the Committee shall make another nomination. No assignment will be made without the voluntary consent of the nominated judge.

5.6.3 CREDIT FOR ASSIGNMENT

The Committee shall determine the amount of case credit the assigned judge receives for performing these pretrial duties and may, from time to time, adjust the credit.

5.6.4 SUBSEQUENT RELATED FILINGS

The assigned judge is thereby obligated to receive all related cases that are filed. The Clerk shall make all subsequent transfers without the signature of the assigned judge or transferor judge.

Any judge who receives a related case, either before or after the appointment of the assigned judge, must relinquish that case to the assigned judge. The determination of whether a case is a related case shall be made by the Committee. All transferor judges shall be debited for each case transferred against the civil judicial assignment cards.

5.6.5 MAGISTRATE JUDGE ASSIGNMENT

If the judge originally assigned the first ten (10) related cases accepts the related cases as the assigned judge, the magistrate judge originally assigned the first ten (10) related cases shall be assigned to the related cases for use by the assigned judge. If the judge originally assigned the first ten (10)

related cases declines the related cases as the assigned judge, the Committee shall assign a magistrate judge to the related cases for use by the assigned judge.

5.6.6 TRIAL ASSIGNMENT FOR RELATED CASES

After pretrial or at a time deemed appropriate by the assigned judge, the assigned judge may refer the related cases back to the Committee for trial assignment. If referred, the Committee shall assign the trials to the judges in seniority order in a sequence taking into consideration prior assignments under this Section. The trial judges shall receive one credit against the civil judicial assignment cards. The transferor judge shall not receive debits when transferring cases to judges for trial

6.0 MULTIDISTRICT CASES

Cases subject to the provisions of 28 USC §1407 and transferred pursuant to an order of the Panel on MultiDistrict Litigation shall be subject to this related case transfer provision as follows:

6.1 CASES TRANSFERRED TO THIS DISTRICT

Cases transferred to this District by the Panel on MultiDistrict Litigation shall be assigned to the judge designated by the Panel. The judge of this District receiving the assignment of those cases will be credited in the same manner as though the cases had originated in this District and transferred pursuant to the low number transfer policy of this Court. Credit shall be given to the transferee judge as provided in Sections 5.5 and 5.6 of this General Order.

6.2 CASES TRANSFERRED OUT OF THIS DISTRICT

Cases transferred from the calendar of any judge of this District by the Panel on MultiDistrict Litigation shall be debited in the same manner as though transferred as a related case to another judge of this Court.

6.3 CASES RETURNED TO THIS COURT FOR TRIAL

Cases returned to this Court for trial after processing by a MultiDistrict transferee judge in another district shall be reassigned to the calendar of the judge from whom the transfer was originally made. At the time of such assignment the judge shall receive credit for the case against the general obligation to receive civil cases.

6.4 CASES RETURNED BY THE TRANSFeree JUDGE TO THE ORIGINATING DISTRICT

Cases returned by the transferee judge to the originating Court shall be subject to being debited to the obligation to receive civil cases as determined by the Case Assignment Committee taking into account the total number of cases and the difficulty of the work performed on the cases so transferred.

7.0 CRIMINAL CASES

All cases of a criminal nature shall be assigned to the individual calendars of the judges of this Court pursuant to this General Order.

7.1 ASSIGNMENT OF CRIMINAL CASES

The assignment of criminal cases shall be completely at random through the Automated Case Assignment System, or otherwise, as approved by the Court and under the supervision of the Chief Judge. The assignments shall be in such a manner that each active judge of the Court over a period of time shall be assigned substantially an equal number of cases.

7.1.1 PREPARATION OF ASSIGNMENT CARDS

After the close of business at the end of each calendar month, a sufficient number of electronic cards shall be prepared for each judge receiving criminal case assignments to satisfy the requirements of the next month's business.

7.1.2 PRESERVATION OF ASSIGNMENT RECORDS

Records pertaining to all case assignments shall be preserved for two years after the end of the calendar year in which the assignments were made.

7.2 COMPLEX CRIMINAL CASE ASSIGNMENT

If prior to or at the time of arraignment, the government advises the magistrate judge that the presentation of its case-in-chief will exceed sixteen (16) trial days, the case shall be randomly assigned to a judge from a separate Complex Criminal Assignment Wheel.

7.2.1 PLEA OF GUILTY

If the defendant(s) enter a plea of guilty before the first witness is sworn and less than sixteen (16) days of motions have been heard, the judge shall receive a debit against the Complex Criminal Assignment Wheel and a credit against the general obligation to receive criminal cases.

7.2.2 SUBSEQUENT IDENTIFICATION AS A COMPLEX CASE

Once a criminal case is assigned, it shall remain with the originally assigned judge and will not be reassigned from the Complex Criminal Assignment Wheel if the United States Attorney's Office subsequently informs the Court that the case is complex. However, if after trial the judge feels the case was complex, he or she may request the Case Assignment Committee to review the case for possible complex criminal case credit. If complex criminal case credit is given, the judge shall receive a debit from the general obligation to receive criminal cases and a credit from the Complex Criminal Assignment Wheel.

7.3 RANDOM SELECTION

The assignment of criminal cases to a judge of the Court shall be by random selection by the magistrate judge at the time of arraignment.

Neither the magistrate judge, Clerk nor any deputy clerk shall have discretion in determining the judge to whom any criminal case shall be assigned. The action of the magistrate judge in the assignment of criminal cases is ministerial only.

7.4 DEBITS AND CREDITS IN CRIMINAL CASES

The Clerk shall promptly make all criminal case assignment debits and credits resulting from transfers under this General Order.

8.0 TRANSFER OF CRIMINAL CASES BETWEEN JUDGES

8.1 VOLUNTARY TRANSFER

Judges may voluntarily transfer cases among themselves in the same manner as provided for in civil cases in Section 3.1.

8.2 VISITING AND SENIOR JUDGES

Criminal cases transferred to a visiting or senior judge shall be treated in the same manner as civil cases in Section 3.2.

8.3 SELF-RECUSAL BY ASSIGNED JUDGE

Criminal cases shall be handled in the same manner as provided for civil cases in Section 3.3.

8.4 PROLONGED ILLNESS OR UNAVOIDABLE ABSENCE

In the event of prolonged illness, disability or other unavoidable absence of a judge to whom a criminal case has been assigned, the Case Assignment Committee may transfer from the calendar of such absent judge any case or cases.

9.0 MOTION TO DISQUALIFY A JUDGE

If a motion is made to disqualify a judge in any criminal case it shall be handled in the same manner as provided for civil cases in Section 4.0.

10.0 RELATED CASE TRANSFERS - CRIMINAL CASES

10.1 RELATED INDICTMENTS

Whenever a newly-filed information or indictment and one or more previously filed informations or indictments:

- a. arise out of the same conspiracy, common scheme, transaction, series of transactions or events; or
- b. involve one or more defendants in common, and would entail substantial duplication of labor in pretrial, trial or sentencing proceedings if heard by different judges,

the newly-filed information or indictment shall be presented for proposed transfer to the judges concerned in the same manner as are related civil cases under Section 5.0 of this General Order.

10.2 RULE 20

Where an information or indictment originating in another District is transferred to this Court pursuant to Rule 20 F.R.Cr.P. involving a defendant proceeded against by indictment or information in this District, the Clerk shall place the Rule 20 transferred matter on the calendar of the judge to whom the matter arising in this District is assigned for disposition. No card credit shall be given to the judge to whom such Rule 20 matter has been assigned for disposition.

If an indictment is returned in this District against a defendant who has a Rule 20 plea pending, the indictment shall be referred to the judge to whom the

Rule 20 plea has been assigned. No assignment credit shall be given for the subsequently assigned indictment.

10.3 INDICTMENTS AND INFORMATION PREVIOUSLY DISMISSED

Whenever an indictment or information has been dismissed before trial, any new indictment or information involving the same transaction or series of transactions and at least a majority of the same defendants shall be assigned to the judge to whom the first indictment or information was assigned. No assignment credit shall be received for the succeeding indictment or information assigned pursuant to this sub-paragraph.

10.4 ASSIGNMENT CREDIT

Any assignments made pursuant to this General Order shall give the receiving judge assignment credit for the subsequently assigned case except as provided in Sections 10.2 and 10.3.

10.5 RELATED CASE TRANSFER - DUTY OF COUNSEL

It shall be the continuing duty of the United States Attorney and of defense counsel to call the Court's attention to the existence of related criminal cases under Section 10.1 and to any case, which would be subject to the provisions of Sections 10.2 or 10.3. Counsel shall do so by promptly filing and serving in the higher numbered case a Notice of Related Criminal Cases identifying the lower numbered case and setting forth the reasons why counsel believes the cases are related. In the case of the United States Attorney, the Notice shall, whenever practicable, be filed concurrently with the filing of the indictment or information and served promptly after the identity of defense counsel has been ascertained.

11.0 CRIMINAL CASE - RETURN TO PENDING CASE FILE

11.1 UNAVAILABILITY OF DEFENDANT

Whenever a defendant because of physical disability, mental incompetency, fugitive status, or other reasons makes no appearance or becomes unavailable for trial or other disposition and it is anticipated the defendant cannot be available for more than 30 days, the judge to whom the case is assigned may return the case to the Clerk's pending criminal case file. If the defendant shall thereafter

become available, the case shall be returned to the judge to whom the case was first assigned. No credit against the general obligation to receive criminal cases shall be given.

12.0 CRIMINAL DUTY JUDGE

12.1 ASSIGNMENT AND DUTIES

There shall be a criminal duty judge or judges who shall perform all duties in connection with criminal matters not assigned to the calendars of the individual judges.

12.2 TERM

The judges, except the Chief Judge, in order of seniority shall rotate the criminal duty judge functions for a period of three months as provided by the order of the Chief Judge, general order or resolution of the Court. No judges assigned to sit in Los Angeles shall be required to perform criminal duty judge functions within six (6) months of the performance of duties as naturalization duty judge or bankruptcy duty judge.

13.0 NATURALIZATION DUTY JUDGE

13.1 ASSIGNMENT

There shall be a naturalization duty judge or judges who shall perform the duties in naturalization and citizenship matters assigned from time to time by General Order.

13.2 DUTIES

The naturalization duty judge or judges shall perform on behalf of the Court the following duties:

- preside over proceedings admitting applicants to United States Citizenship;
- hear and determine contested naturalization or denaturalization proceedings commenced during the term.

13.3 TERM

The judges, except the Chief Judge, in order of seniority shall rotate the naturalization duty judge functions for a period of three months as provided by order of the Chief Judge, general order or resolution of the Court. No judges assigned to sit in Los Angeles shall be required to perform naturalization duty judge functions

within six (6) months of the performance of duties as criminal duty judge or bankruptcy duty judge.

14.0 BANKRUPTCY DUTY JUDGE

14.1 ASSIGNMENT

There shall be a bankruptcy duty judge or judges who shall perform assigned duties in bankruptcy cases from time to time by General Order.

14.2 DUTIES

The following duties in bankruptcy cases and proceedings are hereby assigned to the bankruptcy duty judge or judges.

All motions, applications and other proceedings before the District Court in all cases and proceedings referred to bankruptcy judges which have not been assigned to the calendar of an individual judge of this district, shall be made before or referred to the bankruptcy duty judge or judges. Such motions, applications and other proceedings shall include:

- a. motions for withdrawal of reference;
- b. motions for stay;
- c. motions for expedited review;
- d. applications for leave to appeal an interlocutory order of a bankruptcy judge and for modification of time for appeal;
- e. review of orders and final judgments;

14.3 TERM

The judges, except the Chief Judge, shall serve for a period of three (3) months in this capacity in rotation, as provided by Order of the Chief Judge or general order or resolution of the Court. No judges assigned to sit in Los Angeles shall be required to perform bankruptcy duty judge functions at the same time or within six (6) months service as the criminal duty judge or naturalization duty judge.

15.0 CRIMINAL DUTY, NATURALIZATION, AND BANKRUPTCY DUTY ROSTER

The Executive Committee shall periodically review the roster of criminal, naturalization, and bankruptcy duty to provide for integration of newly appointed judges into the duty rosters as soon as practicable after appointment.

16.0 BANKRUPTCY CASES AND PROCEEDINGS

16.1 INDIVIDUAL ASSIGNMENT OF BANKRUPTCY CASES AND PROCEEDINGS

The following matters in bankruptcy cases and proceedings shall be randomly assigned to the individual calendar of the judges of this Court, as provided by General Order:

- a. any matter in which the reference is withdrawn, unless the entire matter, or substantially the entire matter, is referred back to the bankruptcy judge by the bankruptcy duty judge;
- b. any matter in which a timely notice of appeal has been filed or a timely application for leave to appeal has been granted to be reviewed by the District Court;
- c. any matter referred to the bankruptcy duty judge under Section 14.2, above, which, in the discretion of the bankruptcy duty judge, is referred for assignment to the individual calendar of the judges of this Court.

16.2 CONCURRENT JURISDICTION AMONG BANKRUPTCY JUDGES

Each of the bankruptcy judges of this district shall have concurrent district-wide jurisdiction to act in any and all cases and proceedings in bankruptcy referred to any bankruptcy judge in this district, at the request of the latter or upon order of any district judge of this Court. Referred cases and proceedings may be

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transferred in whole or in part between bankruptcy judges within the district without approval of a district judge.

The General Order shall be effective NOVEMBER 1, 1993.

DATED: 007 2 2 1993